

### **III. REMARKS**

Claims 1-22 are pending in this application. By this amendment, claims 1, 2, 8, 9, 14 and 19 have been amended. Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1-22 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 1-22 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Claims 1-18 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Claims 1-22 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Spiegel (U.S. Patent No. 6,466,918), hereafter “Spiegel.”

#### **A. REJECTION OF CLAIMS 1-22 UNDER 35 U.S.C. §112, FIRST PARAGRAPH**

The Office has stated that claims 1-22 fail to comply with the written description requirement. Specifically, the Office objects to the limitation “specified attribute” in the claims. Applicant respectfully disagrees in that this limitation is supported, *inter alia*, by paragraph 0032 of the original specification. However, Applicant has removed this feature and replaced that the query returns the results based on hierarchy level selected and queried. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

## **B. REJECTION OF CLAIMS 1-22 UNDER 35 U.S.C. §112, SECOND PARAGRAPH**

The Office has stated that claims 1-22 are indefinite. Specifically, the Office states that Applicant has omitted the operative element that the invention “dynamically generates a page based on the result of the query.” Applicant has amended each independent claim to reflect that the computer device generates a query, the results are displayed on the dynamic page which is generated by the computer device, which is displayed for a user at a user device. Applicant believes that this overcomes the 112 rejection by explaining what parts of the invention drive the generating and displaying. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

## **C. REJECTION OF CLAIMS 1-18 UNDER 35 U.S.C. §101**

The Office has stated that claims 1-18 are directed to non-statutory subject matter. Applicant has herein amended independent claim 1 to include at least one computer device, as well as to clarify the steps carried out on the computer device. Independent claim 8 has been similarly amended. Applicant has amended independent claim 14 to include the system components within a computer device to tie it to the Office’s interpretation of statutory subject matter. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

## **D. REJECTION OF CLAIMS 1-22 UNDER 35 U.S.C. §102(b)**

With respect to the 35 U.S.C. §102(b) rejection over Spiegel, Applicant asserts that Spiegel does not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 8, 14 and 19, Applicant submits that Spiegel fails to disclose

each and every feature of the currently amended claims. For instance, Spiegel fails to disclose the feature of, *inter alia*, “automatically generating, on the at least one computer device, the query for each level of the hierarchical structure to display the at least one high frequency item on a high level page, wherein the query is dynamically generated by the at least one computer device at the time of selecting the level of the hierarchical structure,” among other features. Spiegel does not disclose an automatically generated dynamic query for each level of a hierarchical structure which returns frequency items with a dynamic page for a user. Rather, Spiegel discloses “a recursive process is preferably used to elevate the nodes within the tree.” (Spiegel, Col. 8, Lines 60-61). In the subsequent lines, Spiegel goes on to disclose that Table 3 and Table 4 contain “pseudocode” representations of algorithms for use in category nodes and item nodes for elevating nodes.

As Applicant described in the background of the invention at page 3 of the immediate application, “an items is often placed on a higher page by a link that directly accesses the page that includes the item details. In some environments, such a link cannot be created due to the way in which the data for items are stored and/or pages are generated... a query may be required to navigate each level of the hierarchical structure... a link cannot be generated to skip these queries and obtain the item directly. Alternatively, special program code can be written...” (Applicant’s [0004]). As can be seen from Spiegel’s disclosure, the links and code described as prior art are precisely what are being used to display frequently purchased items in the tree of Spiegel.

In contrast, the currently amended claims further clarify the querying process disclosed in the immediate application. Support is found in the application at [0032] which describes that

specific queries are required for each level of the hierarchical structure, which can be automatically generated. Further, these queries are dynamic, they are generated when a user at a user device selects a level of the hierarchical structure. (embodied in amended Claim 1). This can be further understood with regards to independent claim 8 (as well as dependent claims 2, 17 and 22), wherein an administrator is capable of selecting or deciding which high frequency items are to be displayed and at which levels of the hierarchy structure. As such, the features of this invention are directly related to the querying method claimed for retrieving levels of a hierarchical structure and high frequency items, and Spiegel fails to disclose any such query. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

In further support of this position, Applicant respectfully submits that the portions of Spiegel cited by the Office teach only that the identifying of the most “popular” nodes is done automatically and that these automatically identified nodes are called to the attention of users during navigation of the browse structure by elevating the nodes in the browse structure. Col. 1, line 60 through col. 2, line 4; col. 2, lines 26-36; col. 6, lines 5-20. To this extent, it is the identification of nodes that is automatic, and not the generation of queries for traversing the hierarchy. Accordingly, nowhere in the portions cited by the Office or elsewhere does Spiegel teach automatically generating queries.

With respect to dependent claims, Applicant herein incorporates the arguments presented above with respect to the independent claims from which the claims depend. Furthermore, Applicant submits that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicant respectfully requests withdrawal of this rejection.

#### IV. CONCLUSION

In addition to the above arguments, Applicant submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicant does not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicant reserves the right to present such arguments in a later response should one be necessary.

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

/Hunter E. Webb/

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